

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

MIGUEL HUMBERTO MEDINA-CAMPOS,	§	
	§	
Petitioner,	§	
	§	
v.	§	2:15-CV-0182
	§	
UNITED STATES OF AMERICA,	§	
	§	
Respondent.	§	

**ORDER OVERRULING OBJECTIONS,**  
**ADOPTING REPORT AND RECOMMENDATION, and**  
**DENYING MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE**

Came for consideration the motion to vacate, set aside or correct sentence by a person in federal custody filed by petitioner. On September 15, 2017, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the instant motion be denied. Petitioner filed objections to the Report and Recommendation on September 19, 2017, and as ordered by the Court, respondent filed their response September 23, 2017.

By his objections defendant argues he is entitled to an evidentiary hearing on whether trial counsel was ineffective for not filing a motion to suppress. Petitioner appears to argue the “viability of the motion to suppress” itself is at issue. The Court disagrees. The likelihood of success of a motion to suppress was mooted by petitioner’s acceptance of the plea agreement evidenced by his plea of guilty. The record shows defense counsel expressed to defendant her opinion on whether a motion to suppress would be successful. Moreover, the government’s inclusion of a waiver of such motion in the plea agreement, in addition to the standard language contained therein, shows the government believed it ought to be waived in exchange for the plea agreement offer.

That being said, the actual issue before this Court is whether defendant MEDINA-CAMPOS knowingly and voluntarily entered his guilty plea. The Court believes he did. Having made an independent examination of the record in this case and having examined the Report and Recommendation of the Magistrate Judge, defendant's objections and the response thereto, the undersigned United States District Judge hereby OVERRULES petitioner's objections, and ADOPTS the Report and Recommendation. Accordingly, the Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence filed by petitioner is, in all things, DENIED.

IT IS SO ORDERED.

ENTERED this 28th day of September 2017.

s/ Mary Lou Robinson

MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE